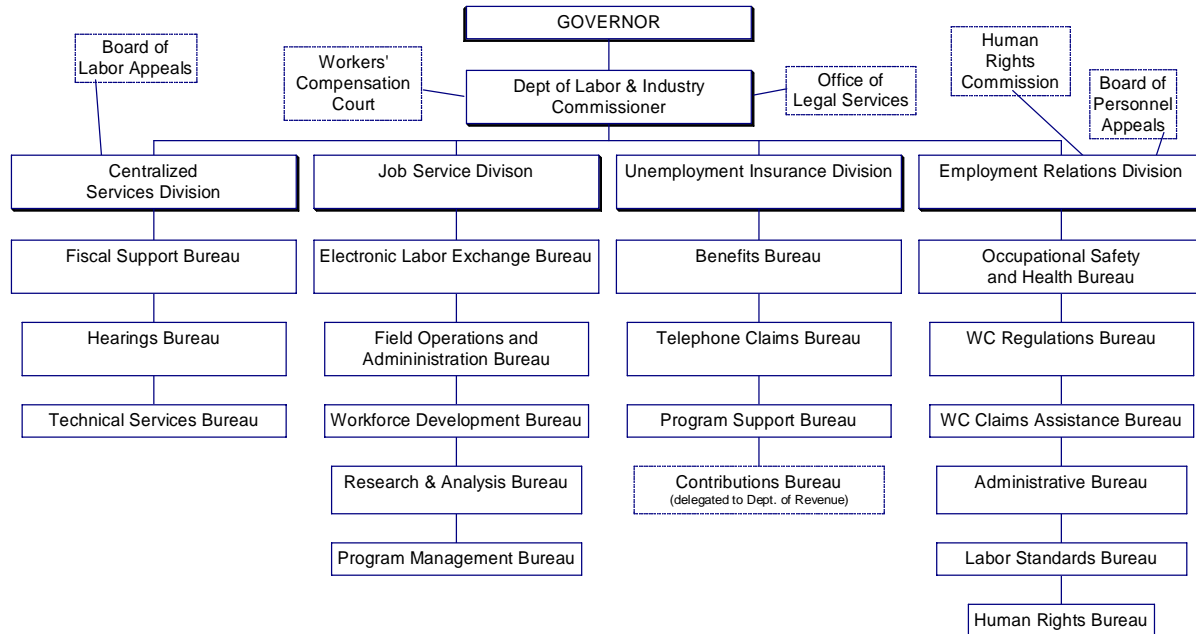
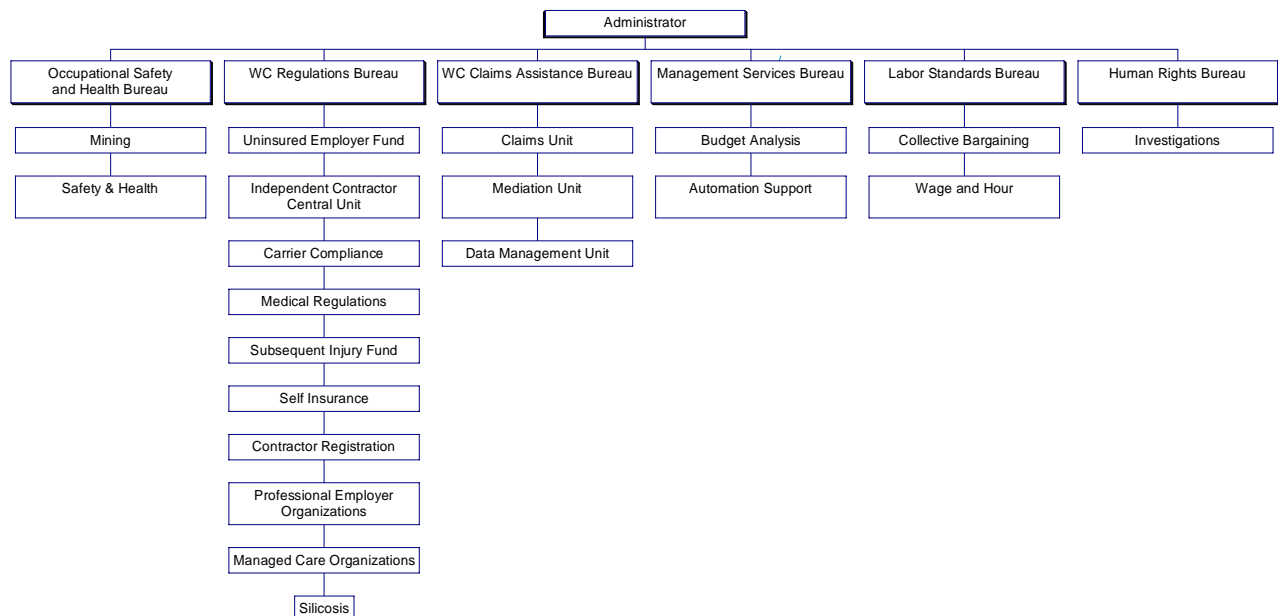


Organizational Charts

Montana Department of Labor & Industry



Montana Department of Labor & Industry Employment Relations Division



Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 (self insured employers), Plan 2 (private insurance carriers), and Plan 3 (Montana State Fund). Section 39-71-201, MCA, requires the administrative assessment to be three percent of benefits paid during the preceding calendar year for injuries covered under the Workers' Compensation Act and the Occupational Disease Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of \$200,000 per occurrence, which are exempt from the assessment).

Regulatory functions performed by the DLI with Workers' Compensation Money

- ◆ Legal functions of the Workers' Compensation Court and the Hearings and Legal Bureaus;
- ◆ Administration of the Employment Relations Division, including the Workers' Compensation Database;
- ◆ Claims management, data analysis, rehabilitation panels, mediation and administration functions of the Claims Assistance Bureau;
- ◆ Medical regulation, self-insurance, carrier compliance, Professional Employer Organizations, Managed Care Organizations and administration functions of the Workers' Compensation Regulations Bureau; and
- ◆ Occupational safety statistics, mandatory inspections, on-site consultation grant match, mining inspection, mine training grant match and safety culture functions of the Occupational Safety and Health Bureau.

Workers' Compensation Assessments as Expended By Fiscal Year of Expenditure

FY00	FY01	FY02	FY03	FY04
\$4,070,937	\$3,950,660	\$4,387,058	\$4,512,300	\$4,584,468

Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of the SIF is to assist individuals with impairments to obtain employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Plan 1 employers and an assessment surcharge against policyholders insured under Plan 2 and Plan 3.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The SIF program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation and Occupational Disease Acts.

There were 173 new SIF certifications during FY04 bringing the total to 3,402 SIF-certified individuals in the state of Montana.

The assessment surcharge is based on a percentage of the compensation and medical benefits paid in Montana by each insurance plan in the preceding calendar year. The rate is set by the ERD based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration, less other income.

SIF Payments and Dollars Assessed By Plan Type¹ and Calendar/Fiscal Years

Plan Type ¹	FY00		FY01		FY02		FY03		FY04	
	Payments CY98	Assessment FY00	Payments CY99	Assessment FY01	Payments CY00	Assessment FY02	Payments CY01	Assessment FY03	Payments CY02	Assessment FY04
Plan 1	134,228	19,804	42,200	0	18,819	0	180,361	99,700	62,115	0
Plan 2	101,196	102,699	16,195	0	9,580	0	43,294	19,854	135,513	14,857
Plan 3	0	22,524	549	0	170	0	12,461	381	94,312	48,642
Total	\$235,424	\$145,027	\$58,944	\$0	\$28,569	\$0	\$236,116	\$119,935	\$291,940	\$63,499

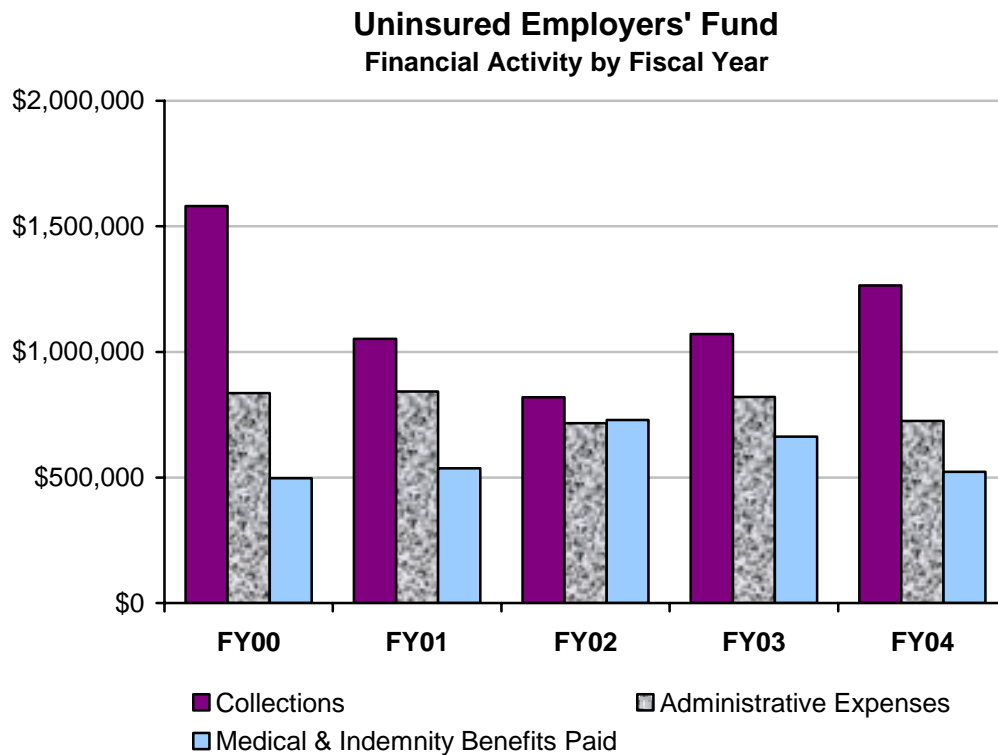
Note:

¹Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

Uninsured Employers' Fund

The role of the Uninsured Employers' Fund (UEF) is to provide benefits to employees injured on the job while working for an uninsured employer. Another prime role of the UEF is to ensure employers comply with workers' compensation laws so employees are properly covered.

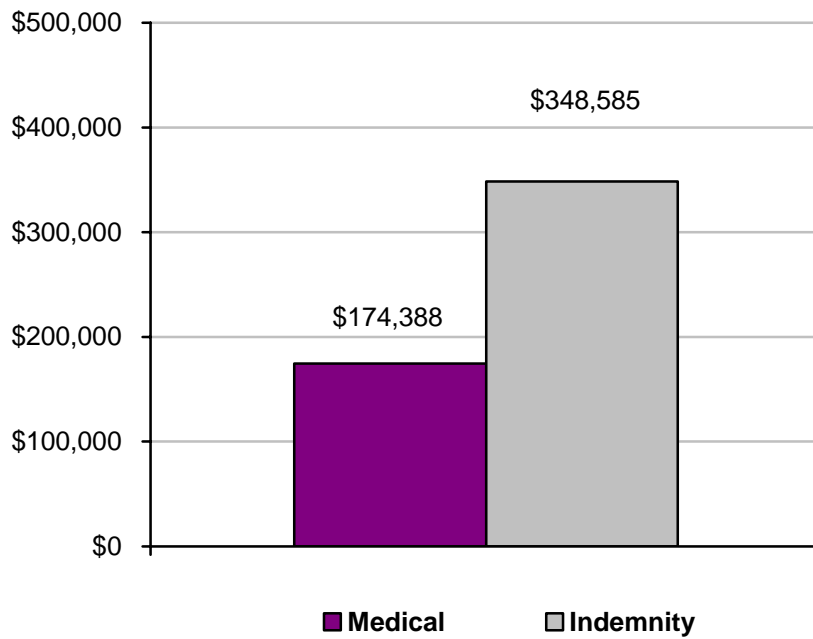
The UEF Unit levies and collects penalties for the time that the employer is uninsured. UEF requires the uninsured employer to pay a penalty to the fund. Penalties can be double the insurance premium that would have been paid by the employer, or \$200, whichever is greater.



Uninsured Employers' Fund
Financial Activity by Fiscal Year

	FY00	FY01	FY02	FY03	FY04
Collections	\$1,580,000	\$1,051,941	\$816,467	\$1,071,012	\$1,412,419
Administrative Expenses	\$836,664	\$842,702	\$716,409	\$820,898	\$808,130
Medical & Indemnity Benefits Paid	\$497,201	\$535,027	\$582,716	\$662,301	\$522,973

UEF Medical and Indemnity Payments - FY04



UEF Medical and Indemnity Payments By Fiscal Year

	FY00	FY01	FY02	FY03	FY04
Medical	168,534	263,017	258,505	284,271	174,388
Indemnity	328,667	272,010	324,211	378,030	348,585
Total	\$497,201	\$535,027	\$582,716	\$662,301	\$522,973

The UEF recorded claims from 79 workers who were injured in FY04 and whose employers were uninsured.

Occupational Safety & Health

The goal of the Occupational Safety and Health Bureau is to prevent employee illnesses and occupational injuries by enforcing the intent of the various Montana safety statutes and to support federally funded Occupational Safety and Health Administration (OSHA) voluntary programs in the private sector. This involves mandatory workplace safety inspections in coal mines, sand and gravel operations, and in public sector workplaces such as city, county, state governments and schools. Non-mining private sector employers are covered by federal OSHA requirements with regard to inspection activities. The ultimate goal of all activities of the Bureau is to reduce worker injuries and illnesses and lower workers' compensation premiums.

The Bureau inspects public workplaces and issues orders for correction of hazards to provide a safe and healthy work environment. Federal OSHA requirements preempt inspecting private places of business, but on-site consultations are available to private employers upon request, thanks to a grant from OSHA.

Mining inspections are conducted on surface and underground coal mines in addition to sand and gravel operations throughout the state. These mines are required to comply with safety and health standards in the mine safety statutes. The Bureau has no enforcement jurisdiction in metal/nonmetal mines, which fall under the auspices of the Federal Mine Safety and Health Administration (MSHA).

MSHA has provided the Bureau with a training grant to conduct safety training for employers and employees of small mines. Mine operators are assisted in developing acceptable training plans so that their employees recognize hazardous conditions in mining operations.

The Safety Culture Act, §39-71-1501, MCA, requires employers in Montana to implement an education-based safety program in each place of employment. Employers with more than five employees are also required to have active safety committees.



Occupational Safety & Health Activities - FY04

Occupational Safety & Health						Employer Sector				
	Public					Private				
	FY00	FY01	FY02	FY03	FY04	FY00	FY01	FY02	FY03	FY04
Mandatory Inspections Performed	250	341	223	239	492	--	--	--	--	--
On-site Inspection Performed	--	--	--	--	--	207	142	214	275	270
Requests for Technical Assistance	292	479	363	540	651	356	438	447	758	732
Formal Training Sessions Conducted	24	44	120*	48	--	61	45	153*	72	--
Workers Trained	572	1,048	811	798	1,143	608	598	1,097	1,702	1,002

Mining Section						Sand & Gravel Operations				
	Coal									
	FY00	FY01	FY02	FY03	FY04	FY00	FY01	FY02	FY03	FY04
Inspections Performed	32	38	31	38	37	160	172	174	84	78
Mine Training Sessions Conducted	11	19	15	13	9	61	79	111	97	122
Workers Trained	156	302	497	200	210	864	1,436	1,512	1,679	2,468
Coal Mine Foreman Training Sessions Conducted	1	--	3	6	2	--	--	--	--	--
Coal Mine Foremen Trained	11	9	19	40	28	--	68	--	--	--

The DLI, Occupational Safety and Health Bureau, has established a schedule of training offered by its *Occupational Safety and Health Training Institute*. Traditionally the Bureau had offered training courses throughout Montana on a reactive basis. This caused scheduling problems, not only for the instructors, but also for those interested in being trained in the various OSHA standards. By setting places, dates and times of training opportunities, the employer and employee can plan schedules well in advance in order to attend. No tuition fee is charged for these courses.

The *Institute* provides basic and advanced training courses in safety and health. Course subject matter includes hazard recognition, state and federal policies and standards and hazard abatement techniques. Courses are designed to build a more effective workforce and to aid in the professional development for Montana employers and employees.

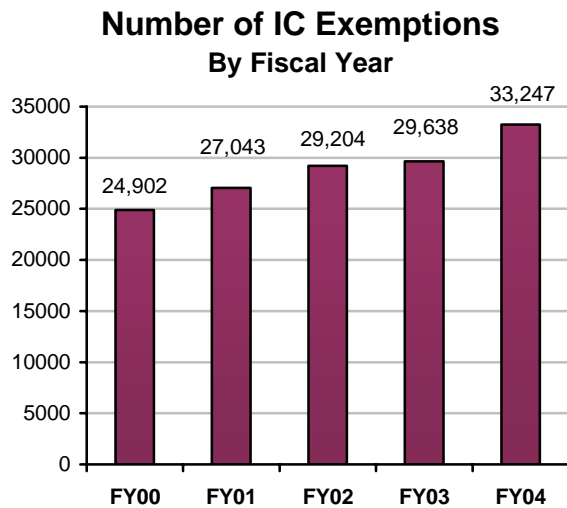
The *Institute* maintains a record of courses successfully completed by each student. These records are useful to both the student and the employer in demonstrating the commitment to a safe and healthy workplace environment. Certificates are issued to those successfully completing the various courses.



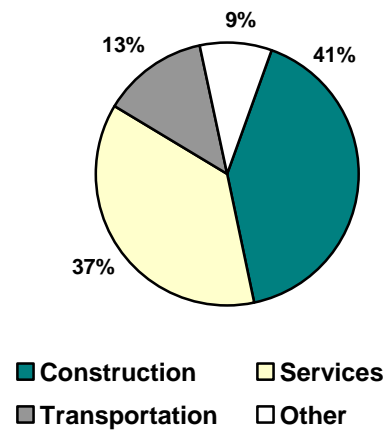
Training Institute		CY04 ¹
Training Sessions		45
Workers Trained		805
Local Focus Groups		CY04
Training Sessions		69
Workers Trained		603

¹ Training Institute and Local Focus Groups are calendar year

Independent Contractor Exemptions



**Percent of IC Exemptions - FY04
By Industry**



Workers' compensation laws require individuals who hold themselves out as independent contractors to have workers' compensation insurance on themselves or obtain an Independent Contractor Exemption certificate. A sole proprietor, working member of a partnership or a working member of a member-managed limited liability company may apply for the exemption. Corporate officers are considered employees of the corporation and do not qualify for the exemption, as well as managers of a manager-managed limited liability company.

The question of whether an individual is an independent contractor or an employee is a complex one that is driven by the facts in each individual case. An independent contractor is defined in Montana law as "one who renders service in the course of an occupation and (a) has been and will continue to be free from control or direction over the performance of the services, both under contract and fact; and (b) is engaged in an independently established trade, occupation, profession or business". This is commonly referred to as the AB test.

Independent contractor exemptions are issued to individuals for a two-year period. Beginning July 2004, the department required all exemption applicants to provide documentation they are in an independent business. This process was implemented due to the recommendations of the SB 270 committee created in the 2003 legislature. The final proposal of this committee can be read at <http://erd.dli.mt.gov/sb270/sb270.asp>.

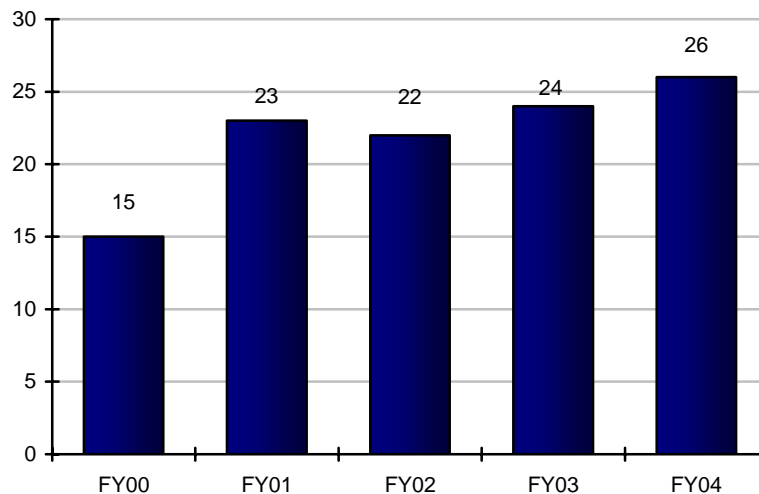
The Montana Supreme Court has informed us that those who hire independent contractors have a responsibility to assure that those hiring are treating the individual as an independent contractor. This means that those hiring must not exert control over the performance of the person's work other than to achieve a bargained for end result. In addition, those hiring should assure the independent contractor is established in an independent occupation, trade, or profession. Simply reporting the individual as an independent contractor and obtaining a copy of their exemption is not enough to protect those hiring from liability under the Workers' Compensation Act.

Professional Employer Organizations

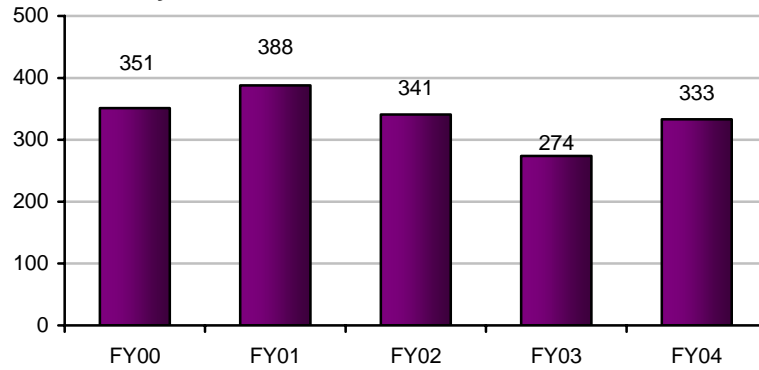
Professional Employer Organizations (PEOs) are required to be licensed by the DLI prior to operating in Montana. A PEO is a business in good standing that contract with other businesses, providing the businesses with leased employees or most frequently lease all or part of their employees. A PEO manages the paperwork responsibilities associated with having employees. PEO's are to pay employee wages, workers' compensation premiums, payroll-related taxes, and employee benefits from their own account without regard to payments by the client. Thus, PEO's become the employer of record. The client companies in return pay the PEO all employee costs plus an administrative fee. The client company is sometimes termed a co-employer. A client is an employer who obtains all or a part of its workforce through an employee leasing arrangement or a professional employer arrangement, both by contract with a Professional Employer Organization.

In FY04, ERD renewed and maintained 26 PEO licenses. An increasing number of client companies maintained contracts with a PEO in FY04, and through the 333 client companies of record, 2,499 employees were employed.

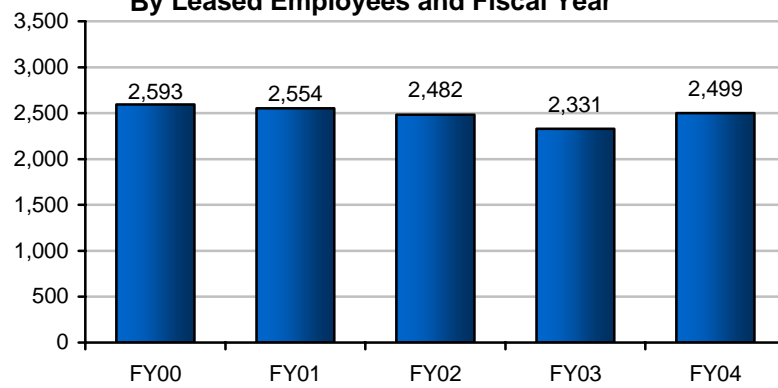
**Professional Employer Organizations
By Number of Licenses and Fiscal Year**



**Professional Employer Organizations
By Number of Clients and Fiscal Year¹**



**Professional Employer Organizations
By Leased Employees and Fiscal Year¹**



¹Data Source: POINTS – (Process Oriented Integrated Tax System, Department of Revenue - Unemployment Insurance Division)